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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,526	04/12/2004	Joachim Glaser	10537/280	4868

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/823,526	Applicant(s) GLASER ET AL.	
	Examiner Hilary Gutman	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-12 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the window and flap opening of claims 1, 3-6, 8-10, 12-15, and 17-18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

3. The disclosure is objected to because of the following informalities: the new language added to specification with regard to Figure 5 does not correspond to anything in the figures (since no Figure 5 was submitted). Therefore, perhaps this new language should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3, 7-8, 10-12, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '216 in view of EP '741.

JP 63020216 discloses an extendable protective awning for a vehicle, comprising: a base frame (Figure 2) fastenable to the vehicle; and a protective surface 2 movable between at least one retracted basic position and an extended end position (Figure 1) by a linkage (f); wherein the base frame is configured to be arranged in an interior of the vehicle a region of an upper boundary of a flap opening (Figure 3) of the vehicle, the protective surface 2 extendable from the retracted basic position through an opened one of the flap opening into the end position.

With regard to claim 2, the base frame is integrated into a housing 3, an outer surface of the housing configured to match an interior surface in the region of the upper boundary of the one of (a) the door, (b) the window and (c) the flap opening.

With regard to claim 7, the protective surface includes a flexible web of material rollable within the base frame onto a roller, the roller prestressed to provide a movement to pull the web of material into the retracted end position.

For claim 10, JP '216 discloses a motor vehicle, comprising: an extendable protective awning, including: a base frame (Figure 2) fastened to the vehicle; and a protective surface 2 movable between at least one retracted basic position and an extended end position (Figure 1) by

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a linkage (f); wherein the base frame is arranged in a region of an upper boundary of one a flap opening in an interior of the vehicle, the protective surface extendable from the retracted basic position through an opened one of the flap opening into the end position.

With regard to claim 11, the base frame is integrated into a housing, an outer surface of the housing configured to match an interior surface in the region of the upper boundary of the one of (a) the door, (b) the window and (c) the flap opening.

With regard to claim 16, the protective surface includes a flexible web of material rollable within the base frame onto a roller, the roller prestressed to provide a movement to pull the web of material into the retracted end position.

JP '216 lacks a linkage with two levers.

EP '741 teaches an extendable protective awning for a vehicle, comprising: a base frame fastenable to a vehicle; and a protective surface movable between at least one retracted basic position and an extended end position by a linkage which has at least two levers. The linkage is arranged completely within the housing in a retracted basic position and includes a scissor-type linkage.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the protective awning with linkages and levers as taught by EP '741 in place of the awning of JP '216 in order provide a more structurally stable awning for the occupant of the vehicle with a larger surface area for rain drop protection.

7. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '741 in view of JP '216.

EP '741 discloses an extendable protective awning for a vehicle, comprising: a base frame fastenable to the vehicle; and a protective surface movable between at least one retracted basic position and an extended end position by a linkage. The base frame is integrated into a housing which includes a base plate and a hood fastenable to a structure of the vehicle, the base plate releasably connected to the hood, the protective surface and the linkage fastened the base plate.

EP '741 lacks the awning in the interior of a vehicle such that the awning can be extendable from the retracted basic position through an opening of a door, window or flap opening.

JP '216 teaches an extendable protective awning for a vehicle, comprising: a base frame (Figure 2) fastenable to the vehicle; and a protective surface 2 movable between at least one retracted basic position and an extended end position (Figure 1) by a linkage (f); wherein the base frame is configured to be arranged in an interior of the vehicle a region of an upper boundary of a flap opening (Figure 3) of the vehicle, the protective surface 2 extendable from the retracted basic position through an opening of the flap opening into the end position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the awning of EP '741 in the interior of a vehicle and extendable through a flap opening thereof as taught by JP '216 in order to provide people with protection from exposure to rain drops in their stepping on and off the vehicle under the adverse weather.

Allowable Subject Matter

8. Claims 4-6 and 13-15 are allowed.

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9. The indicated allowability of claims 3, 8-9, 12, and 17-18 is withdrawn in view of the newly discovered reference(s) to EP '741. Rejections based on the newly cited reference(s) are set forth above.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

With regard to the drawings, no new "Figure 5" was apparently submitted with the amendment and therefore the drawing objections have been maintained.

With regard to the specification objection, no attempt was made to overcome or obviate the objection and no remarks are set forth to argue the objection. Therefore, it is hereby maintained.


Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hilary Gutman
November 2, 2005